

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

**NATIONAL ORGANIZATION FOR)
MARRIAGE AND AMERICAN)
PRINCIPLES IN ACTION,)**

PLAINTIFFS)

v.)

CIVIL No. 09-538-B-H

**WALTER F. McKEE, in his official)
capacity as member of the)
Commission on Government Ethics)
and Election Practices, ET AL.,)**

DEFENDANTS)

ORDER ON PLAINTIFFS' MOTION TO STAY

The plaintiffs have requested for the third time that I stay a discovery order pending its appeal of that order to the Court of Appeals for the First Circuit and its pending request for mandamus. I previously denied a request for stay when I overruled the plaintiffs' objection to the Magistrate Judge's discovery order and once again when I denied the request for a certificate of appealability.

I apply the factors described in Hilton v. Baunskill, 481 U.S. 770 (1987), as pertinent to the issuance of a stay in civil cases:

1. Whether the stay applicant has made a strong showing that he is likely to succeed on the merits;

2. Whether the applicant will be irreparably injured absent a stay;
3. Whether issuance of the stay will substantially injure the other parties interested in the proceeding; and
4. Where the public interest lies.

Id. at 776 (citations omitted).

The plaintiffs do not have a likelihood of success on the merits, given the confidentiality order that applies to the material subject to the discovery order and the other factors (including late submission of evidentiary materials) that I referred to in my Order of February 17, 2010. See Order on Pls.' Mot. (Docket Item 50). Because of the confidentiality order, the plaintiffs will not be irreparably injured. Delay hampers the state defendants in enforcing the applicable state law. The public interest lies with enforcement of duly enacted laws, unless there is a constitutional violation, which I have concluded is unlikely.

Accordingly, the motion for stay is **DENIED**.

SO ORDERED.

DATED THIS 27TH DAY OF APRIL, 2010

/s/D. BROCK HORNBY
D. BROCK HORNBY
UNITED STATES DISTRICT JUDGE